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September 16, 2019

Via Electronic Filing

The Honorable Magistrate Judge Sanket J. Bulsara
United States District Court
Eastern District of New York
225 Cadman Plaza East
Chambers 304N, Courtroom 324N
Brooklyn, New York 11201

Re: *Flint v. Atlantic Networks, LLC et al;*
Civ Case No.: 1:18-cv-05534-ERK-SJB

Dear Honorable Justice Bulsara:

This law firm is counsel to Defendant Atlantic Networks, LLC (the “**Defendant**”) in the above-referenced matter. For the reasons detailed below, Defendant respectfully petitions the Court to compel cross-defendants The Atlantic Chip Shop LLC and Chipshop Corp. (together, the “**Chip Shop Defendants**”) to participate in the Court-Ordered Mediation.

By way of background, this case was referred to Court-Ordered mediation on January 18, 2019. Defendant filed an Answer with Crossclaims against the Chip Shop Defendants on May 9, 2019. [See Dckt. No. 21]. The Chip Shop Defendants filed an Answer to Defendant’s Crossclaims on May 11, 2019. [See Dckt. No. 23]. Defendant has been attempting to schedule a mediation with Mediator Nancy Kramer, of JAMS. However, as of the date of this letter, the Chip Shop Defendants are refusing to participate in the Court-Ordered mediation.

This case involves alleged violations of the Americans with Disabilities Act (ADA) and its State and NYC counterparts. Based on the complaint, Plaintiff, who uses a wheelchair, alleges that on unspecified date(s) she was denied full and equal access to and enjoyment of the restaurant “The Atlantic Chip Shop” located at 129 Atlantic Ave., Brooklyn, NY 11201 (the “**Premises**”). Defendant entered into a lease with the Chip Shop Defendants for the Premises. [See Dckt. No. 21 at ¶ 118]. Under the lease, the Chip Shop Defendants agreed to pay all costs, expenses, fines, penalties or damages, which may be imposed upon Defendant by reason of their failure to comply with the Lease arising out of certain acts and omissions including, *inter alia*, those that relate to violations of any ADA laws. It is respectfully submitted that the Chip Shop Defendants’ participation is necessary if a global resolution of this action is to be reached.

Defendant and Ms. Kramer have attempted to confirm the Chip Shop Defendants’ attendance multiple times via email. To date, the Chip Shop Defendants have refused to participate in the Court-Ordered mediation.

In light of the foregoing, Defendant respectfully requests that this Court: (i) compel the Chip Shop Defendants to attend the Court-Ordered mediation by “so-ordering” the instant application; and (ii) enter an order striking the Chip Shop Defendants’ Answer to Defendant’s

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Crossclaims if they continue to fail to comply with the Court's January 18, 2019 Order directing the parties to participate in Mediation.

Thank you, in advance, for your time and consideration.

Respectfully submitted,

LEVIN-EPSTEIN & ASSOCIATES, P.C.

By: /s/ Jason Mizrahi

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